

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0357-01
Bill No.: HB 733
Subject: Crimes and Punishment; Health Care; Corrections Department; Mental Health
Type: Original
Date: March 15, 2011

Bill Summary: This proposal allows certain ill inmates to be released on parole and placed in a medical facility when the inmate is eligible to receive federal medical psychological or financial benefits which will cover the costs

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
General Revenue	(Unknown) to Unknown	(Unknown) to Unknown	(Unknown) to Unknown
Total Estimated Net Effect on General Revenue Fund	(Unknown) to Unknown	(Unknown) to Unknown	(Unknown) to Unknown

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Federal Funds	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on FTE	0	0	0

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Health and Senior Services** and the **Department of Social Services** each assume the proposal would not fiscally impact their respective agencies.

Officials from the **Department of Corrections (DOC)** state the proposed legislation allows for certain ill inmates to be released on parole and placed in a medical facility when the inmate is eligible to receive federal medical psychological or financial benefits which will cover the cost.

Whether someone is "incompetent" is properly addressed by a court, not the DOC's Division of Probation and Parole (P&P) or the Division of Rehabilitative Services (DORS). In the case of an offender who has mental deficiencies before coming to DOC, the court has already considered whether they are better suited for prison or other alternatives.

Offenders who are currently incarcerated for a felony are not eligible for federal benefits, so it is unclear how DOC could determine whether an offender would be eligible once paroled. If DOC is required to aid in this determination process, it is unknown what staff and resources would be required for this operational challenge.

The bill also states that parole may be granted "provided that the board of probation and parole makes a determination that such offender is incapable of inflicting violence on others and does not pose a danger to the health, welfare, or safety of others." Unless an offender is comatose or within days of death, Probation and Parole will not be able to assert that an offender is incapable of inflicting violence on others. With regard to offenders with severe mental disabilities, Probation and Parole could not determine the "incapability of inflicting violence" because the actions of such offenders are the most difficult to predict. Mentally disabled offenders often pose the biggest risk of harm to correctional and medical staff.

Several of the proposed criteria that are to be considered for the medical parole have no bearing on an offender's medical or mental health status. It is unclear what criteria could be used or who would have the qualifications to determine the "maturity of the offender at the time of the crime." It is doubtful that any mentally disabled offender could give "substantial thought to a workable parole plan."

ASSUMPTION (continued)

There is nothing in the language of this bill that indicates who will initiate the proposed medical parole review – medical staff, DORS, the institution, the offender or his/her family. If a request is initiated by the family of an offender, there is a question as to whether the parole board is required to conduct a review, even if the request is not supported by the medical or mental health staff attending the offender. Subsection 2 requires the board to consider 8 specific factors, but in cases where the request is not supported by medical staff, any review would be a waste of state resources. It is unclear whether the board is supposed to wait until it receives verification that the offender is eligible for federal benefits to begin its review, or if that eligibility is part of the review. This language creates many questions about how this process is supposed to work. It could potentially create a very time consuming and ultimately costly process with little or no effect on the population of incarcerated offenders.

In summary, the fiscal impact for passage of this bill for the DOC is Unknown per each year.

Officials from the **Department of Mental Health (DMH)** state there may be legal impacts and costs associated with legal challenges against permanent placement. In addition, individuals placed in state operated mental health facilities who are between the ages of twenty-two (22) and sixty-four (64) cannot be billed to Medicaid. Those individuals would be 100 percent General Revenue. Therefore, the impact to the Department of Mental Health (DMH) is a cost of unknown greater than \$100,000.

Oversight will range the fiscal impact of this bill on the Department of Corrections and the Department of Mental Health from \$0 (no offenders will be deemed ‘incapable’ of inflicting violence and who will also qualify for federal medical, psychological, or financial benefits) to an unknown amount.

<u>FISCAL IMPACT - State Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
GENERAL REVENUE			
<u>Savings</u> - Department of Corrections Potential for offenders who are moved out of the DOC into federally funded health facilities	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown
<u>Costs</u> - Department of Corrections Administrative costs of the Division of Probation and Parole in determining if incarcerated offenders meet the criteria to be moved to medical, psychological or other adult care treatment facility.	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	(Unknown) to <u>Unknown</u>	(Unknown) to <u>Unknown</u>	(Unknown) to <u>Unknown</u>
FEDERAL FUNDS			
<u>Costs</u> - Department of Mental Health Potential for offenders who are moved out of the DOC into federally funded health facilities	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>
ESTIMATED NET EFFECT TO FEDERAL FUNDS	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>

FISCAL IMPACT - Local Government

FY 2012
(10 Mo.)

FY 2013

FY 2014

\$0

\$0

\$0

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

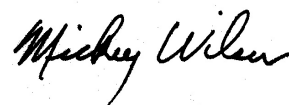
FISCAL DESCRIPTION

This bill authorizes the Board of Probation and Parole within the Department of Corrections to release on parole any offender sentenced to or incarcerated in a correctional institution for five or more years who is or becomes physically or mentally disabled, infirm, incompetent, or incapacitated to the degree that he or she needs to be permanently placed in an infirmary, health, or mental care facility if he or she is eligible to be placed in and receive federal medical, psychological, or financial benefits and the board makes a determination that the offender is incapable of inflicting violence on others and does not pose a danger to the health, welfare, or safety of others. The bill specifies the criteria that the board must consider when making its decision.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Corrections
Department of Mental Health
Department of Social Services
Department of Health and Senior Services



L.R. No. 0357-01
Bill No. HB 733
Page 7 of 7
March 15, 2011

Mickey Wilson, CPA
Director
March 15, 2011